

FORMAT OF DEED - DEFERRED COVENANT/
PREVIOUS HISTORY OF CONTAMINANTS

QUITCLAIM DEED

STATE OF KANSAS) (

KNOW ALL BY THESE PRESENTS:

COUNTY OF JOHNSON)

THIS Quitclaim Deed is made this the ____ day of _____ 2000, by and between the **United States of America**, also referred to as the Government, acting by and through the Administrator of General Services under and pursuant to authority of the Federal Property and Administrative Services Act of 1949 (63 Stat. 377, 40 U.S.C. §471, et seq.) as amended, and rules, orders, and regulations issued pursuant thereto, as **Grantor**, and Kansas Statewide Projects Development Corporation ("**KSPDC**"), created under authority of Kansas Statutes Annotated, Section 74-8904(v), as amended, as **Grantee**.

WITNESSETH:

WHEREAS, all the property to be conveyed herein has heretofore been declared surplus to the needs of the United States of America and the respective interests to be conveyed hereby has been reported to the Administrator of General Services and has been determined to be surplus for disposal pursuant to said Federal Property and Administrative Services Act of 1949, acting pursuant to the above referred laws, regulations and orders.

NOW, THEREFORE, **Grantor** and **Grantee** make the following respective conveyances, grants, assignments, reservations, restrictions, covenants, exceptions, notifications, conditions, and agreements hereinafter set forth.

I. Conveyance of the Fee Estate

Grantor, for and in consideration of: (1) all good and valuable consideration specified in the separate written *Memorandum of Agreement* made and entered into by **Grantor** and **Grantee**, dated _____; and, (2) the specific agreements hereinafter made by **Grantee**, for itself and its successors and assigns, to abide by and take subject to all reservations, restrictions, covenants, exceptions, notifications, conditions and agreements hereinafter set forth in this Quitclaim Deed, does hereby grant, convey, remise, release and forever quitclaim to the **Grantee**, its successors and assigns, under and subject to the reservations, restrictions, covenants, exceptions, notifications, conditions and agreements hereinafter set forth, fee simple determinable in and to that certain property situate, lying, and being in Johnson County, State of Kansas, and described in detail in **Attachment "A"**, which is attached hereto and made a part hereof (hereinafter referred to as the "Property").

TO HAVE AND TO HOLD the same, together with: (1) all mineral rights and water rights located within the boundaries of the Property; (2) all improvements, hereditaments, appurtenances therein and all reversions, remainders, issues, profits and other rights belonging or related thereto; and, (3) the fee simple determinable conveyed by **Grantor** in the Property, either in law or in equity, for the use, benefit and behalf of the **Grantee**, its successors and assigns forever.

II. General Government Reservations to Conveyance

This Quitclaim Deed covering the property described in **Attachment "A"** is expressly made subject to the following reservations in favor of **Grantor**, and its assigns:

(A) **SAVE AND EXCEPT** and there is hereby reserved unto **Grantor**, and its assigns, all rights and interests that have been previously reserved to **Grantor** in the Patent(s) covering the Property.

(B) **SAVE AND EXCEPT** and there is hereby reserved unto **Grantor**, and its assigns, a reversionary interest in that the fee simple determinable estate conveyed to **Grantee** by this Quitclaim Deed. This reversionary interest shall automatically terminate in the event, and only in the event, of the entry of an order of a court of competent jurisdiction that requires or results in the avoidance, rescission, annulment or cancellation of the transfer of the Property, or any portion thereof, by **Grantee** to a subsequent transferee which would, absent this reversionary interest, cause title to vest back to the **Grantee**. **Grantor** agrees that it will retain such reversionary interest in the Property until such time as **KSPDC** consents in writing to the release of such reversionary interest.

III. CERCLA Covenant and Reservations to Conveyance

(A) **NOTICE OF HAZARDOUS SUBSTANCE ACTIVITY**. Pursuant to Section 120(h)(3)(A)(i) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA)(42 U.S.C. §9620(h)(3)(A)(i), and based upon a complete search of agency files, the U.S. Army (Army) hereby gives notice that **Attachment “B”** provides the following information: (1) the type and quantity of hazardous substances that were known to have been released or disposed of or stored for one year or more on the Property; (2) the time such storage, release or disposal took place; and (3) a description of remedial action taken, if any.

(B) **Grantor** warrants that it shall take any additional response action found to be necessary after the date of this conveyance regarding hazardous substances located on the Property on the date of this conveyance.

(1) This covenant shall not apply:

(a) in any case in which the successors(s) or assign(s) **Grantee**, or any successor in interest to the Property, or part thereof, is a Potentially Responsible Party (PRP) with respect to the Property immediately prior to the date of this conveyance;

(For the purpose of this covenant, the successors(s) or assign(s) of **Grantee**, or any successor in interest to the Property, or part thereof, shall not be considered a PRP with respect to the Property due to an action by the successor(s) or assign(s) of **Grantee**, taken prior to this conveyance pursuant to and in furtherance of the purchase of the Property, or part thereof, unless, and only to the extent, that such action resulted in the release, threatened release or disposal of a hazardous substance on the Property that may result in cleanup liability.)

OR

(b) to the extent, but only to the extent, that such additional response action or part thereof found to be necessary is the result of an act or failure to act of the successor(s) or assign(s) **Grantee**, or any party in possession after the date of this conveyance that either:

(i) results in a release or threatened release of a hazardous substance that was not located on the Property on the date of this conveyance; **OR**

(ii) causes a release or threatened release of a hazardous substance the existence and location of which was known and identified to the applicable regulatory authority as of the date of this conveyance;

but only if the successor(s) or assign(s) of **Grantee**, or any party in possession after the date of this conveyance, had a legal duty to act or had actual knowledge of the need to act and failed to take reasonable mitigating actions.

(2) In the event **Grantee**, its successor(s) or assign(s), seeks to have **Grantor** conduct or pay for any additional response action, as a condition precedent to **Grantor** incurring any additional cleanup obligation or related expenses, the **Grantee**, its successor(s) or assign(s), shall provide **Grantor** at least 45 days written notice of such a claim and provide credible evidence that:

(a) the associated hazardous substance existed prior to the date of this conveyance; and

(b) the need to conduct any additional response action or part thereof was not the result of any act or failure to act by the **Grantee**, its successor(s) or assign(s), or any party in possession.

(C) **Grantor** reserves a right of access to all portions of the Property for environmental investigation, remediation or other corrective action. This reservation includes the right of access to and use of available utilities at reasonable cost to **Grantor**. These rights shall be exercisable in any case in which a remedial action, response action or corrective action is found to be necessary after the date of this conveyance, or in which access is necessary to carry out a remedial action, response action, or corrective action on adjoining property. Pursuant to this reservation, the United States of America, and its respective officers, agents, employees, contractors and subcontractors shall have the right (upon reasonable advance written notice to the record title owner) to enter upon the Property and conduct investigations and surveys, to include drilling, test-pitting, borings, data and records compilation and other activities related to environmental investigation, and to carry out remedial or removal actions as required or necessary, including but not limited to the installation and operation of monitoring wells, pumping wells, and treatment facilities. Any such entry, including such activities, responses or remedial actions, shall be coordinated with record title owner and shall be performed in a manner that minimizes interruption with activities of authorized occupants. **Grantor** will provide the record title owner reasonable advance written notice of such activities, responses, or remedial actions.

(D) **Grantee** covenants and agrees for itself, its successors and assigns and every successor in interest to the Property, or part thereof, that while the respective parties identified in this paragraph and/or any party occupying the Property are in possession of the Property, they shall not disrupt or prevent the United States of America, its officers, employees, agents, contractors and subcontractors, and any other authorized party or entity from conducting required remedial investigations, response actions and oversight activities or from the proper and necessary construction, upgrading, operating, maintaining and monitoring of any groundwater treatment facilities or groundwater monitoring network on the Property or adjoining property.

IV. Specific Use Restrictions and Covenants Affecting the Property

Grantee covenants and agrees for itself, its successors and assigns, and every successor in interest to the Property hereby conveyed, or any part thereof, that the Property is hereby conveyed subject to the following use restrictions which are covenants running with the land. **Grantee** further covenants and agrees for itself, its successors and assigns, and every successor in interest to the Property hereby conveyed, or any part thereof, that in the event that the Property is sold, conveyed, transferred, leased, or otherwise disposed of, the following covenants and restrictions, (the "Covenants and Restrictions") shall be inserted in any instrument of conveyance. **Grantor** agrees that upon any sale, conveyance, transfer, lease or other disposition of the Property, or any portion thereof, by KSPDC to any third party by an instrument of conveyance which specifically includes the Covenants and Restrictions set forth below in such instrument of conveyance, the specific obligations and responsibilities of KSPDC with respect to the Covenants and Restrictions as to the property specifically conveyed shall be deemed satisfied.

(A) Non-Residential Use Restriction

Grantee, for itself and its successors and assigns, covenants and agrees that the use of the Property shall be limited to non-residential use only. In addition, prohibited residential uses include, but are not limited to,

child care, pre-school, playground or any form of housing.

1. In the event the successor(s) or assign(s) of **Grantee**, desire to use the Property for any use other than non-residential use, then the successor(s) or assign(s) of **Grantee**, shall perform all additional environmental remediation required by law and the applicable Federal, state and/or local regulatory authorities for such other uses and shall further comply with all laws, rules, regulations and ordinances pertaining thereto, including but not limited to zoning requirements and the requirements of all applicable regulatory authorities.

2. Any such additional remediation beyond non-residential use undertaken by the successor(s) or assign(s) of **Grantee** shall also be subject to the review and advance approval of the applicable Federal and/or state regulatory authorities. The approval procedure is set forth in the Matrix of Reservations, Covenants, Conditions, Notices and Use Restrictions for Proposed Multiple Conveyances of Sunflower Army Ammunition Plant ("Matrix"), recorded in Book _____, at Page ____, of the records of the Johnson County Clerk.

3. Upon written request by the successor(s) or assign(s) of **Grantee**, and without any payment of funds by **Grantor**, **Grantor** agrees, upon completion of any additional remedial action performed by the successor(s) or assigns(s) of **Grantee**, under this paragraph, to cooperate with **Grantee**, its successor(s) or assign(s), in any application, permit, order, or effort to obtain approval from appropriate regulatory authorities for other than non-residential use and the removal or revision of this restriction. The procedure for obtaining such cooperation from **Grantor** is set forth in the Matrix of Reservations, Covenants, Conditions, Notices and Use Restrictions for Proposed Multiple Conveyances of Sunflower Army Ammunition Plant ("Matrix"), recorded in Book _____, at Page ____, of the records of the Johnson County Clerk.

(B) SWMU Areas/Ground Disturbance Restriction. (site specific)

Grantee, for itself and its successors and assigns, covenants and agrees that no physical or structural change(s) or disturbance of ground surface shall be permitted in, on or immediately adjacent to the Solid Waste Management Unit (SWMU) Areas specifically described in **Attachment C**, hereto, except for such further investigation, study or remedial activities as permitted by applicable Federal or state regulatory authorities.

1. In the event the successor(s) or assign(s) of **Grantee** desire to conduct or permit any use inconsistent with this restriction prior to the completion of all necessary remedial action, then **Grantee**, its successor(s) or assign(s), shall be required to obtain written permission of the applicable Federal or state regulatory authority for such other uses and shall further comply with all laws, rules, regulations and ordinances pertaining thereto, including but not limited to zoning requirements and the requirements of all applicable regulatory authorities.

2. Upon written request by the successor(s) or assign(s) of **Grantee**, **Grantor** agrees, upon completion of any necessary, required remedial action performed under this paragraph, to remove this restriction. The procedure for obtaining such removal of this restriction is set forth in the Matrix of Reservations, Covenants, Conditions, Notices and Use Restrictions for Proposed Multiple Conveyances of Sunflower Army Ammunition Plant ("Matrix"), recorded in Book _____, at Page ____, of the records of the Johnson County Clerk.

(C) Area of Concern Areas/Ground Disturbance Restriction (site specific)

Grantee, for itself and its successors and assigns, covenants and agrees that no physical or structural change(s) or disturbance of ground surface shall be permitted in, or, or immediately adjacent to the Area of Concern Areas specifically described in **Attachment D**, hereto, except for such further investigation, study or remedial activities as permitted by applicable Federal or state regulatory authorities.

1. In the event the successor(s) or assign(s) of **Grantee** desire to conduct or permit any use

other inconsistent with this restriction prior to the completion of all necessary remedial action, then the successor(s) or assign(s) of **Grantee**, shall be required to obtain written permission of the applicable Federal and state regulatory authority for such other uses and shall further comply with all laws, rules, regulations and ordinances pertaining thereto, including but not limited to zoning requirements and the requirements of all applicable regulatory authorities.

2. Upon written request by the successor(s) or assign(s) of **Grantee**, **Grantor** agrees, upon completion of any necessary, required remedial action performed under this paragraph, to remove this specific restriction. The procedure for obtaining such removal of this restriction is set forth in the Matrix of Reservations, Covenants, Conditions, Notices and Use Restrictions for Proposed Multiple Conveyances of Sunflower Army Ammunition Plant ("Matrix"), recorded in Book _____, at Page _____, of the records of the Johnson County Clerk.

(D) Groundwater Use Restriction (site specific)

The **Grantee**, for itself and its successors and assigns, covenants and agrees that the successor(s) or assign(s) of **Grantee**, shall not construct or permit to be constructed any well, and shall not extract, utilize, consume or permit to be extracted, any water from any aquifer below the surfaces of the ground within the area identified in **Attachment E**, hereto, for the purpose of human consumption, or such other use, unless the groundwater has been tested and found to meet applicable standards for human consumption, or such other use, by the applicable state and local regulatory authorities, and such well or extraction is acceptable to KDHE. The costs associated with obtaining use of such water, including, but not limited to, the costs of permits, studies, or analysis shall be the sole responsibility of the successors or assigns of **Grantee**.

Grantee further covenants and agrees for itself, its successors and assigns and every successor in interest to the Property, not to hinder or prevent the proper and necessary construction, upgrading, operating, maintaining and monitoring of any groundwater treatment facilities or groundwater monitoring network.

V. Specific Environmental Notices, Exceptions, Restrictions and Covenants Affecting the Property

This Quitclaim Deed covering the Property is expressly made subject to the following environmental notices, exceptions, restrictions and covenants affecting the Property to the extent and only to the extent the same are valid and affect the Property:

(A) Notice of Possible Explosive Contamination

Grantee is hereby notified and acknowledges that the property identified as SUNFLOWER ARMY AMMUNITION PLAT was a facility that was used primarily for the production of military propellants until 1994. A list of the explosive chemicals produced in explosive manufacturing at the Plant is attached hereto as **Attachment C**. The Army has previously certified to **Grantor** that all explosive contamination which might present an explosive hazard risk has been identified and removed from the Property prior to the date of this Quitclaim Deed. Therefore, to the best knowledge and belief of **Grantor**, all explosive contamination that might present an explosive risk has been identified and removed from the Property. Notwithstanding the foregoing, if the successor(s) or assign(s) of **Grantee**, and/or any contractors performing ground intrusive work on the Property, discovers potential discrete contamination or areas with material which may be of a potential explosive hazard nature, as identified in **Attachment C**, above, the successor(s) or assign(s) of **Grantee**, agree to contact the Army for its determination of the potential explosive hazard risk, and proper disposal by the Army.

(B) Notice that the Property contains improvements that may contain Asbestos - WARNING

1. **Grantee**, for itself and its successors and assigns, is hereby informed and acknowledges that friable and non-friable asbestos or asbestos-containing material has been found on the Property. The Army has previously certified to **Grantee** the nature and location of friable and non-friable asbestos on the Property

prior to the date of this Quitclaim Deed. Therefore, to the best knowledge and belief of **Grantor**, any friable or non-friable asbestos containing material that may be found on the Property does not currently pose a threat to human health or the environment. The following additional information is provided.

2. Unprotected or unregulated exposures to asbestos in product manufacturing, shipyard, building construction workplaces have been associated with asbestos-related diseases. Both Occupational Safety and Health Administration (OSHA) and the Environmental Protection Agency (EPA) regulate asbestos because of the potential hazards associated with exposure to airborne asbestos fibers. Both OSHA and EPA have determined that such exposure increases the risk of asbestos-related diseases, which include certain cancers and which can result in disability or death.

3. **Grantee**, its successors and assigns, are warned that the Property contains asbestos containing materials. No warranties, either express or implied, are given with regard to the quantity, location or condition of the asbestos containing material. **Grantee**, its successors and assigns, shall be deemed to have relied solely on their own judgment in assessing the overall condition of all or any portion of the Property, including any asbestos hazards or concerns. **Grantee** acknowledges that **Grantee**, for itself and its successors and assigns, was given every opportunity to inspect the Property to verify the presence of and assess the risk, if any, from asbestos containing material.

4. **Grantee**, for itself and its successors and assigns, agrees that **Grantor** shall have no liability for damages for personal injury, illness, disability or death of the successor(s) or assign (s) of **Grantee** and/or their employees, contractors, subcontractors, invitees, or any other person subject to the control and supervision of the successors and assigns of **Grantee**, or any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether the successor(s) or assign(s) of **Grantee** have been or may have been properly warned or failed to properly warn the individual(s) injured. The successor(s) and assign(s) of **Grantee** further agree that in the use and occupancy of the Property, it will comply with all Federal, State, and local laws relating to asbestos.

5. The successors and assigns of **Grantee** further agree to indemnify and hold harmless **Grantor**, its assigns, and their respective officers, agents and employees, from and against all suits, claims demands or actions, liabilities, judgments, costs, and attorneys' fees arising out of, or in any manner predicated upon, exposure to asbestos on any portion of the Property after the conveyance of the Property to **Grantee** or any future remediation or abatement of asbestos or the need therefor. The obligations of the successor(s) or assign(s) of **Grantee** hereunder shall apply whenever **Grantor**, or its assigns, incurs costs or liabilities for actions giving rise to liability under this section.

(C) Notice that the Property contains improvements that contain lead-based paint.

Grantee, for itself and its successors and assigns, is hereby informed and acknowledges that all buildings on the Property which were constructed or rehabilitated prior to 1978 are presumed to contain lead-based paint. The Army has previously certified to **Grantee** the nature and location of lead-based paint on the Property prior to the date of this Quitclaim Deed. Therefore, to the best knowledge and belief of **Grantor**, any lead-based paint that may be found on the Property does not currently pose a threat to human health or the environment. The following additional information is provided.

1. Pursuant to the Residential Lead-Based Paint Hazard Reduction Act of 1992, P.L. 102-550 (Title X), **Grantee**, for itself and its successors and assigns, hereby acknowledges the required disclosure of the presence of any known lead-based paint hazards in target housing constructed prior to 1978 on the Property. The Property contains no improvements defined by Title X as target housing. However, in the event the Property is converted for residential use, the successors and assigns of **Grantee** agree to comply with Title X and all applicable Federal, State and local laws relating to lead-based paint. **Grantee**, for itself and its successors and assigns, agrees that **Grantor** shall have no liability for damages for personal injury, illness, disability or death of the successor(s) or assign (s) of **Grantee** and/or their employees, contractors, subcontractors, invitees, or any other person subject to the control and supervision of the successors and

assigns of **Grantee**, or any other person, including members of the general public, arising from or incident to the purchase, transportation, removal, handling, use, disposition, or other activity causing or leading to contact of any kind whatsoever with asbestos on the Property, whether the successor(s) or assign(s) of **Grantee** have been or may have been properly warned or failed to properly warn the individual(s) injured. The successor(s) and assign(s) of **Grantee** further agree that in the use and occupancy of the Property, it will comply with all Federal, State, and local laws relating to lead-based paint.

2. Available information concerning known lead-based paint and/or lead-based paint hazards, the location of lead-based paint and/or lead-based paint hazards, and the condition of painted surfaces is contained in the Environmental Baseline Survey and [for residential properties] the lead-based paint risk assessment, which has been provided to **Grantee**. Additionally, the aforementioned reports pertaining to lead-based paint and/or lead-based paint hazards have been provided to **Grantee**. All future purchasers must also receive the federally approved pamphlet on lead poisoning prevention. **Grantee** hereby acknowledges receipt of all of the information described in this subsection. . The Army has previously certified to **Grantee** the nature and location of lead-based paint on the Property prior to the date of this Quitclaim Deed. Therefore, in complying with these requirements, **KSPDC** specifically agrees not to use the Property, or any portion thereof, for residential purposes. In addition, **KSPDC** shall, upon its transfer of the Property, or any portion thereof, include in the instrument of conveyance a covenant wherein all future successors(s) or assign(s) of the Property, or any portion thereof, covenants and agrees to be responsible for any abatement or remediation of lead-based paint or lead-based paint hazards on the Property found to be necessary as a result of the subsequent use of the property for residential purposes. **Grantee**, for itself and its successors and assigns, further covenants and agrees to comply with solid or hazardous waste laws that may apply to any waste that may be generated during the course of lead-based paint abatement activities.

3. **Grantee**, for itself and its successors and assigns, acknowledges that it has received the opportunity to conduct its own risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards prior to execution of this Quitclaim Deed.

4. The successors and assigns of **Grantee** further agree to indemnify and hold harmless **Grantor**, its assigns, and the respective officers, agents and employees, from and against all suits, claims demands, or actions, liabilities, judgments, costs and attorney's fees arising out of, or in a manner predicated upon personal injury, death or property damage resulting from, related to, caused by or arising out of lead-based paint or lead-based paint hazards after the date of this conveyance of the Property if used for residential purposes. The obligations of the successors and assigns of **Grantee** hereunder shall apply whenever the **Grantor**, or its assigns incurs costs or liabilities for actions giving rise to liability under this section.

(D) **Notice of Wetlands Area. (Site specific)** Portions of the Property contain wetlands. **Grantee**, for itself and its successors and assigns, agrees and covenants that any development of the above described Property will be subject to all applicable wetlands regulations and other applicable federal, state and local statutes, and ordinances relating to wetlands. To the extent required under Section 404 of the Federal Clean Water Act, the successors and assigns of **Grantee** agree to obtain prior authorization from the United States Army Corps of Engineers before engaging in any ground disturbance activity which would adversely affect the extent, condition and function of a wetlands area.

(E) **Notice of 100 year Floodplain. (Site Specific)** Portions of the Property are located in a 100 Year floodplain. **Grantee**, for itself and its successors and assigns, agrees and covenants that any development of the above described Property will be subject to floodplain regulations and other applicable Federal, state and local statutes, and ordinances relating to flood hazard

(F) **Notice of FAA Restrictions.** **Grantee**, for itself and its successors and assigns, agrees and that any construction or alteration is prohibited on any portion of the Property unless a determination of no hazard to air navigation is issued by the Federal Aviation Administration in accordance with Title 14 Code of Federal Regulations, Part 77, entitled "Objects Affecting Navigable Airspace," or under the authority of the Federal Aviation Act of 1958, as amended.

(G) Notice of Historic Property/Specific Conditions, Restrictions, Limitations and Covenants.

Grantee is hereby informed and acknowledges that portions of the Property may have been determined to be of historic significance. **Grantee** (hereinafter sometimes referred to in this Section as "LANDOWNER") covenants for itself, its successors, and assigns, and every successor in interest to the Property hereby conveyed, or any part thereof, that the Property is hereby conveyed subject to the following conditions, restrictions, limitations and covenants hereinafter set forth which are covenants running with the land. **Grantee** further covenants and agrees for itself, its successors, and assigns, and every successor in interest to the Property hereby conveyed, covenants and agrees that in the event that the property is sold or otherwise disposed of, these covenants and restrictions shall be inserted in all instruments of conveyance.

1. Any and all plans for the proposed development of all or any portion of said real property which may result in causing ground disturbance to the property shall be approved in writing by the Kansas State Historic Preservation Officer ("SHPO"), Kansas Historic Preservation Office, Cultural Resources Division, Kansas History Center, 6425 SW 6th Avenue, Topeka, Kansas, 66615-1099.

2. The SHPO and/or his authorized designee shall be permitted at all reasonable times to inspect said property in order to ascertain if the conditions hereinafter set forth are being observed.

3. No physical or structural change(s) or disturbance of ground surface will be permitted which would affect the historic integrity or archeological value of the property without the express prior written permission of the SHPO and/or its authorized designee.

4. In the event that previously unidentified archeological resources are discovered during ground disturbing activities on the property or any portion thereof, LANDOWNER shall immediately halt all activities within the area of the archeological resources and in the surrounding area where further subsurface remains can reasonably be expected to occur and notify the SHPO of the discovery.

5. The SHPO or its authorized designee will immediately inspect the work site and determine the extent of the affected archeological resource. Ground disturbing activities may then continue in the area outside the archeological resource as it is defined by the SHPO, or its authorized designated representative.

6. Within 14 days of the original notification of discovery, the LANDOWNER will determine the National Register of Historic Places ("National Register") eligibility of the affected archeological resources. This time frame may be extended by the LANDOWNER up to two times, each such extension shall not exceed 7 days, by providing written notice to the SHPO. Ground disturbing activities shall resume at the archeological site if it is determined, and the SHPO concurs, that the located archeological resources are not eligible for inclusion in the National Register.

7. Whether in the planning stage set forth in paragraph (1), above, or in the previously unknown archeological resource discovery process set forth in paragraph (4), above, if archeological resources are determined eligible for inclusion in the National Register, LANDOWNER and the SHPO shall proceed in accordance with the following stipulations:

a) If LANDOWNER, in consultation with the SHPO, determines that the proposed ground disturbance will have an effect on a historic property included in or eligible for inclusion in the National Register, the LANDOWNER shall submit a treatment plan for the avoidance and protection of such site to the SHPO. Preservation in Place shall be the preferred treatment. Preservation in Place is defined herein as the measures taken to insure that the Historical Property(ies) will not be affected by any current or future undertaking as defined in 36 C.F.R., Part 800. Properties may be avoided either through project design changes or the use of specified construction techniques so that significant site deposits will not be disturbed. In the event that design changes cannot be modified LANDOWNER shall submit a data recovery plan to the SHPO outlining proposed salvage excavations.

b) LANDOWNER shall submit the treatment plan or data recovery plan, respectively, to the SHPO, for review and approval, which such review will be promptly conducted and which such approval will not be unreasonably withheld.

c) LANDOWNER shall implement the approved treatment plan or data recovery plan.

d) Ground disturbing activities shall resume at the archeological site either (1) upon implementation of the treatment plan if permitted by the treatment plan, or (2) upon implementation of the data recovery plan.

8. Data recovery and treatment of the identified site areas shall be in compliance with the Secretary of the Interior's Standards and Guidelines for Archeological Documentation (48 FR 44734-37) and take into account the Advisory Council on Historic Preservation's ("ACHP") publication, Treatment of Archeological Properties. Development plans shall be coordinated with the SHPO for guidance in planning the development of said real property. If LANDOWNER and the SHPO are unable to agree on the proposed development, SHPO shall forward all documentation relevant to the dispute to the ACHP whose decision is final.

9. In the event of violation of the above restrictions, the United States of America or the SHPO may institute a suit to enjoin such violation or for damages by reason of any breach thereof. The United States of America or the SHPO, if such party ultimately prevails, shall be entitled to recover all reasonable costs or reasonable expenses incurred in connection with such a suit, including all court costs and reasonable attorney's fees.

10. Failure by the United States of America and/or the SHPO to exercise any right or remedy granted under this instrument shall not have the effect of waiving or limiting the exercise of any other right or remedy or the use of such right or remedy at any other time.

11. These restrictions shall be binding on the LANDOWNER; however, the SHPO may, for good cause, modify or cancel any or all of the foregoing restrictions upon written application of LANDOWNER.

12. The acceptance of the delivery of this quitclaim deed shall constitute conclusive evidence of the agreement of LANDOWNER, its heirs, successors and assigns, to be bound by the conditions, restrictions, and limitations, and to perform the obligations herein set forth.

13. This covenant is binding on LANDOWNER, its heirs, successors, and assigns. Restrictions, stipulations, and covenants contained herein shall be inserted by LANDOWNER verbatim or by express reference in any future deed or other legal instrument by which divests LANDOWNER either the fee simple title or any other lesser estate in the property or any part thereof.

14. If any part, term or provision of the Covenants are held by the final judgment of any court of competent jurisdiction to be illegal, invalid or unenforceable, the validity of the remaining portions or provisions shall not be impaired or affected, and the rights and obligations of the parties shall be construed and enforced as if the Covenants did not contain that certain part, term or provision held to be illegal, invalid or unenforceable.

VI. General Exceptions to Conveyance

This Quitclaim Deed covering the Property is expressly made subject to the following matters to the extent and only to the extent the same are valid and affect the Property:

(A) All existing easements, consents, licenses, permits and rights-of-way for public and private roads, streets and highways, railroads, sewerage lines, public utilities, and pipelines, ditches and canals on, over and across said land, of record, or otherwise identified and approved in writing by **Grantee**.

(B) All existing interest(s) reserved to or outstanding in third parties in and to oil, gas and/or minerals, of record, or otherwise approved in writing by **Grantee**.

(C) Any discrepancies, conflicts, or shortages in area or boundary lines, or any encroachments, or protrusions, or any overlapping of improvements which may affect the subject Property.

(D) All existing leases, installation commander agreements, and other outgrants, of record, or otherwise approved in writing by **Grantee**.

VII. Miscellaneous Covenants and Agreements/Grantor

(A) **Grantor** agrees that all documents relating to the environmental condition of the Property as well as the conveyance of the Property from **Grantor** to **Grantee** shall be maintained for a period of five years from the date of this conveyance by the Army in an accessible repository located at or near the Property so that such records will be available for inspection, review and copying by **Grantee**, and its successors or assigns. **Grantee**, its successors or assigns, at their own expense, shall have the right to inspect, review and copy such records.

VIII. Miscellaneous Covenants/Grantee

Except with respect to the requirements of 42 U.S.C. 9620(h)(3)(C), **Grantee** covenants for itself while it is possession of the Property, and for the successors or assigns of **Grantee**, and every successor in interest in the Property, to abide with each of the agreements and covenants running with the land identified in this Quitclaim Deed. In addition, **Grantor** and its assigns shall be deemed a beneficiary of each of the agreements and covenants without regard to whether it remains the owner of any land or interest therein in the locality of the Property hereby conveyed and shall have a right to enforce each of the agreements and covenants in any court of competent jurisdiction. Notwithstanding the foregoing except with respect to the requirements of 42 U.S.C. 9620(h)(3)(C), **Grantor**, and its assigns shall have no affirmative duty to any successor in title to this conveyance to enforce any of the agreements and covenants.

(A) The Property is conveyed "**as is**" and "**where is**" without any representation or warranty on the part of **Grantor** to make any alterations, repairs or additions, except as otherwise provided in this Quitclaim Deed or the separate written *Memorandum of Agreement* made and entered into by **Grantor** and **Grantee**, dated _____. **Grantor** shall not be liable for any latent or patent defects in the Property, except to the extent required by applicable law. Except as otherwise provided in the separate written *Memorandum of Agreement* made and entered into by **Grantor** and **Grantee**, dated _____, **Grantee**, for itself and its successors and assigns, acknowledges that **Grantor** has made no representations or warranty concerning the condition and state of repair of the Property nor **Grantor** made any other agreement or promise to alter, improve, adapt or repair the Property not otherwise contained herein.

(B) **Grantee**, for itself and its successors and assigns, covenants and agrees that the successors and assigns of **Grantee** shall not discriminate upon the basis of race, color, religion, or national origin in the use, occupancy, sale, or lease of the Property, or in their employment practices conducted thereon. This covenant shall not apply, however, to the lease or rental of a room or rooms within a family dwelling; nor shall it apply with respect to religion on premises used primarily for religious purposes.

(C) The following covenant shall run with the land for a period of three (3) years from the date of conveyance:

1. If any time within a 3-year period from the date of this conveyance, the successors or assigns of **Grantee** shall sell or enter into agreements to sell the Property, or any portion thereof, either as a single transaction or in a series of transactions, it is covenanted and agreed that all proceeds as defined in paragraph (2), below, received or owed to and ultimately received by the successor(s) or assign(s) of

Grantee, or any subsequent seller's actual allowable costs ultimately received by such subsequent seller, will be remitted to **Grantor**. In the event of a sale of less than the entire property, actual allowable costs will be apportioned to the Property based on a mutually agreed determination by **Grantor** and the successors and assigns of **Grantee**.

2. For purposes of this covenant, all proceeds received by the successor(s) or assign(s) of **Grantee** shall include only the present value, at the time of any sale or agreement to sell, of cash, cash equivalent or other direct payment and shall not include any payment with respect to indemnification or protection, reduction or reimbursement of any liability of the successor(s) or assign(s) of **Grantee**. In addition, the successor(s) or assign(s) **Grantee**, or any subsequent seller's allowable costs shall include: (a) the purchase price of the Property, or any portion thereof, (b) the direct costs actually incurred and allocable to improvements which serve only the Property, or any portion thereof, including road construction, storm and sanitary sewer construction, building rehabilitation and demolition, landscaping, grading and other site or public improvements, (c) the direct costs actually incurred and allocable to design and engineering services with respect to the Property, (d) finance charges actually incurred and allocable to loans obtained to meet any of the allowable costs enumerated above, (e) costs and expenses actually incurred and allocable to performance and payment bonds, cost overrun insurance and pollution liability insurance obtained by the successor(s) or assign(s) of **Grantee**, as required in the separate written *Memorandum of Agreement* made and entered into by **Grantor** and **Grantee**, dated ____, (f) environmental cleanup costs, (g) consultant and legal fees, and (h) real estate closing fees, including brokers fees, title insurance fees, survey costs and other closing costs incurred in connection with the real estate transaction(s). None of the allowable costs described herein above will be deductible if defrayed by Federal grants or if used as matching funds to secure Federal grants.

3. In order to verify compliance with the terms and conditions of this covenant, the record title owner shall submit an annual report for each of the subsequent 3 years to **Grantor** on the anniversary date of this conveyance. Each report will identify the property involved in this transaction and will contain such of the following items of information as are applicable at the time of submission: (a) a description of each portion of the property that has been resold, (b) the sale price of each such resold portion, (c) the identity of each purchaser, (c) the proposed land use, and (d) enumeration of any allowable costs incurred and paid that would offset any realized profit. If no resale has been made, the report shall so state.

4. **Grantor** may monitor the Property and inspect records related thereto to ensure compliance with the terms and conditions of this covenant and may take any action available under law to recover any excess profits realized through the resale of the Property, or any portion thereof.

(D) In addition to the aforementioned covenants and subject to the exceptions set forth in Article III(A), above and in Subsections (E) and (F), below, **Grantee**, its successors and assigns, agree to indemnify, protect, defend, save and hold harmless, **Grantor**, its assigns, and the respective employees, officers representatives, attorneys and agents of **Grantor** or its assigns, from and against any and all debts, duties, obligations, liabilities, suits, claims, demands, causes of action, damages, losses, costs and expenses (including, without limitation, attorney fees and expenses and court costs) in any way relating to, connected with, and/or arising out of the release of any hazardous substance(s) or petroleum product(s) or their derivatives which may contaminate the Property, or any portion thereof, which first occurs after the date of this conveyance. For the purposes of this subparagraph, the term release shall not be construed to include the migration of any contamination for which the **Grantor**, or its assigns, is responsible under this Quitclaim Deed or the separate written *Memorandum of Agreement* made and entered into by **Grantor** and **Grantee**, dated _____.

(E) The indemnity provisions contained in Section VIII(D), above, shall not apply in the event **Grantor**, or its assign(s) caused or contributed to such release or threatened release or with respect to such contamination resulting from hazardous substance activity during the time the Property, or any portion thereof, was owned by **Grantor** or otherwise incurred prior to the date of this conveyance.

(F) The indemnity provisions contained in Section VIII(D) shall not apply to KSPDC, Kansas Development Finance Authority, the State of Kansas or its political subdivisions. Further, **Grantor** acknowledges that under no circumstance shall KSPDC, Kansas Development Finance Authority, the State of Kansas or its political subdivisions, or any unit of local government, assume responsibility and/or otherwise be responsible for any environmental remediation which may be required to be performed on the Property. These specific exceptions shall not protect the non-governmental successor(s) or assign(s) of **Grantee** and, except as modified by this Subparagraph, all other **Grantee** obligations identified in this Quitclaim Deed shall remain in full force and effect. KSPDC for itself and its successor(s) or assign(s), covenants and agrees that all covenants, use restrictions, conditions, exceptions notices, indemnities, and agreements, if applicable, identified in this Quitclaim Deed, shall be inserted in any future instrument of conveyance.

IN WITNESS WHEREOF, the United States of America has caused these presents to be executed this _____ day of _____, 2000.

UNITED STATES OF AMERICA
Acting by and through the
Administrator of General Services

By _____

General Services Administration

THE STATE OF _____ X
COUNTY OF _____ X

BEFORE ME, a Notary Public in and for the State of _____, on this day personally appeared _____, known to me to be the person whose name is subscribed to the foregoing QUITCLAIM DEED, and known to me to be the _____, General Services Administration, _____, and acknowledged to me that the same was the act and deed of the United States of America and of the Administrator of General Services and that he executed the same as the voluntary act of the United States of America and of the Administrator of General Services for the purposes and consideration therein expressed and in the capacity therein stated.

GIVEN UNDER MY HAND AND SEAL OF OFFICE at _____, this ____ day of _____, 2000.

Notary Public, State of Texas